

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

GWENDOLYN MIRANDA MOATS,

Plaintiff,

v.

CIVIL ACTION NO. 1:20CV53  
(Judge Keeley)

ANDREW M. SAUL,  
Commissioner of Social  
Security Administration,

Defendant.

ORDER ADOPTING THE REPORT AND RECOMMENDATION  
[DKT. NO. 23], DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT  
[DKT. NO. 14], GRANTING THE DEFENDANT'S MOTION FOR SUMMARY  
JUDGMENT [DKT. NO. 17], AND DISMISSING CASE WITH PREJUDICE

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On March 25, 2020, the plaintiff, Gwendolyn Miranda Moats ("Moats"), filed a complaint against the Commissioner of the Social Security Administration ("Commissioner") (Dkt. No. 1). Moats sought review of the Commissioner's final decision denying her applications for Disability Insurance Benefits ("DIB") and Supplemental Security Income ("SSI"). In accordance with 28 U.S.C. § 636 (b) and L.R. Civ. P. 9.02 regarding Social Security Cases, this action was referred to United States Magistrate Judge Robert W. Trumble for initial review.

In a Report and Recommendation ("R&R") entered on February 4, 2021, Magistrate Judge Trumble recommended that the Court deny Moats's motion for summary judgment and grant the Commissioner's motion for summary judgment (Dkt. No. 23). Following a careful review of the record, he concluded that the Administrative Law

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Judge's decision to deny benefits contained no legal error and was supported by substantial evidence. Id. at 17.

The R&R informed the parties of their right to file "written objections identifying the portions of the Report and Recommendations to which objection is made, and the basis for such objection." Id. It further warned that failure to do so would result in waiver of the right to appeal. Id. Despite receipt of the R&R, neither party filed objections to the recommendation.

"The Court will review de novo any portions of the magistrate judge's Report and Recommendation to which a specific objection is made...." Dellacirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). The Court will uphold those portions of a recommendation to which no objection has been made unless they are "clearly erroneous." See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005). Failure to file specific objections waives appellate review of both factual and legal questions. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984); see also Moore v. United States, 950 F.2d 656, 659 (10th Cir. 1991).

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Having received no objections to the R&R, the Court has no duty to conduct a de novo review of Magistrate Judge Trumble's findings. Following a review of the R&R and the record for clear error, the Court:

- 1) **ADOPTS** the R&R (Dkt. No. 23);
- 2) **DENIES** Moats's Motion for Summary Judgment (Dkt. No. 14);
- 3) **GRANTS** the Commissioner's Motion for Summary Judgment (Dkt. No. 17); and
- 4) **DISMISSES** this civil action **WITH PREJUDICE** and **DIRECTS** that it be stricken from the Court's active docket.

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court **DIRECTS** the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record.

DATED: February 23, 2021.

/s/ Irene M. Keeley

IRENE M. KEELEY

UNITED STATES DISTRICT JUDGE